

## Clifton, Brian

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**From:** Haight, Carey  
**Sent:** Tuesday, November 15, 2016 11:23 PM  
**To:** Parker, John; kelly@greatfallsrealty.com  
**Cc:** contactdoj@mt.gov; Terrones, Fernando; Weber, Susan; US Dept of Justice; Washington DC FBI; Clifton, Brian  
**Subject:** Re: 2nd REQUEST RE: Cascade County Zoning Board discrepancies

Ms. Parks -

I appreciate your patience in awaiting my response to your below emails. Despite your accusatory and hostile comments, your erroneous assumptions and your misstatements of law and fact, I will attempt, once again, to reply to the substance of your concerns, as I have attempted previously in vain to do:

1. Neither the Cascade County Attorney or his office "officially voided" the previous Cypress Creek solar farm public hearings (or any other hearings) conducted by the Zoning Board of Adjustment (ZBOA). Under the authority of the Cascade County Attorney in my capacity as a Deputy County Attorney, upon notice of the ZBOA's lack of quorum at the subject hearings, I issued a legal opinion that the ZBOA was not properly assembled to conduct any official business when it lacked a quorum, making their actions, in my opinion, "void ab initio".
2. I was not aware at the time of the Cypress Creek hearings that the ZBOA Bylaws, adopted in 2007 (and before I was working as a Deputy County Attorney) required a 4 person quorum; apparently neither were the members of the ZBOA or the planning staff aware of the 4 person quorum requirement. The ZBOA has the authority under their Bylaws to change their Bylaws; they have just recently so amended their Bylaws to now permit the 3 person quorum. Once the quorum error was identified, those most recent matters heard by the ZBOA when it lacked a quorum were declared by the ZBOA to be void, and the Zoning Administrator was directed to arrange for those matters to be resubmitted for ZBOA action before a quorum of the board.
3. The ZBOA and Planning staff routinely invites and accepts public comment and feedback in advance of as well as at the time of ZBOA hearings. Information submitted in advance of the newly scheduled ZBOA hearings, regardless of whether they were provided to the Planning Department Staff or to the ZBOA at the previously scheduled hearings represents public comment about the subject matter to be decided by the Board and it is therefore appropriate to provided all such material to the Board for their review and consideration as part of the currently scheduled hearings.
4. I vehemently dispute your slanderous allegations regarding Mr. Austin - he made absolutely no discriminatory comments towards women (or anyone else) during the hearing. He stated his objections to Attorney Jean Faure and how she was speaking to the Board but his remarks had nothing to do with her gender. With regard to his remark about just not looking at the solar farms, Mr. Austin has personally apologized for the insensitivity of his remark, which he said in jest - regardless it did not constitute "hate speech." You are also incorrect in your assertion that the Whistleblower Protection Act has any bearing on this discussion.
5. The zoning regulations specify that if the solar development is proposed on property not owned by the applicant that the applicant submit a lease, consent agreement, or easement with the landowner which

articulates the property usage, project, duration, etc. I am advised that Cypress Creek as provided such an agreement for their use of the property for the proposed solar farm developments.

6. Whether or not Cypress Creek is actually able to utilize any permit they might obtain from the ZBOA for their proposed solar development(s) is not a matter relevant to the ZBOA's consideration of whether a permit for that use in the proposed location would be appropriate to issue. There are frequently a number of terms and conditions attached to any permit issued by the ZBOA which an applicant/developer will have to fully comply with in order to lawfully operate under a use permit. In addition to any and all other regulatory agencies and departments of local, state, and federal government which have authority over the proposed project, Cypress Creek will have to work out its issues with the PSC as well. The ZBOA is just one agency which regulates just one part of the proposed project.

Carey Ann Haight  
Deputy Cascade County Attorney  
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Ph: 406-454-6915

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**From:** Kelly Parks,MS <kelly@greatfallsrealty.com>  
**Sent:** Monday, November 14, 2016 7:06 PM  
**To:** Parker, John  
**Cc:** contactdoj@mt.gov; Haight, Carey; Terrones, Fernando; Weber, Susan; US Dept of Justice; Washington DC FBI  
**Subject:** 2nd REQUEST RE: Cascade County Zoning Board discrepancies

John,

I have not received your response from my email. Please note that all correspondence is subject to the Whistle blower ACT, United States Dept of Justice.

How can prior testimony be allowed for a public hearing that was VOID?

How can "anyone" submit an application for an unconditional use permit that is a "solar plant" in a residential zoning (County Commissioners and Deputy County Attorney indicated in the meeting to pass the new zoning regulation that this new "unconditional use" permit was for nursing homes in areas where the zoning was not allowed- please see minutes and or audio, or I can supply the audio of the meeting).

How can "anyone" submit an application without proof of a lease for subject property?

How can the Zoning Board of Adjustments change the number of persons for a quorum, as it has in the past? The Cascade County rules and regulations do not appear to be consistent with the State laws.

It appears according to Cascade County Rules and Regs the entire board must be in favor to grant an " Unconditional Use Permit".

Why have you not addressed the discrimination against sex, which is a protected class according to the Human Rights Commission, that I have brought to your attention regarding Bill Austin Zoning Board of Adjustment member?

I have lots of other question regarding how legally Cascade County is operating, but I am now asking again for a second time for you to address this, as your Deputy County Attorney is either ignoring my questions or is unable to answer them, as you requested her to do in the last email.

This is not going away. I am again requesting an answer my questions prior to the NEW hearings. I believe the issue of quorums is basic, as it seems the Montana State Bar has to have a quorum also.

Again for the second time, I look forward to a response to my questions.

Kelly Parks MS  
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--- [jparker@cascadecountymt.gov](mailto:jparker@cascadecountymt.gov) wrote:

From: "Parker, John" <[jparker@cascadecountymt.gov](mailto:jparker@cascadecountymt.gov)>  
To: "kelly@greatfallsrealty.com" <[kelly@greatfallsrealty.com](mailto:kelly@greatfallsrealty.com)>  
CC: Dept of Justice State of Montana <[contactdoj@mt.gov](mailto:contactdoj@mt.gov)>, "Haight, Carey" <[chaight@cascadecountymt.gov](mailto:chaight@cascadecountymt.gov)>, "Terrones, Fernando" <[fterrones@cascadecountymt.gov](mailto:fterrones@cascadecountymt.gov)>, "Weber, Susan" <[sweber@cascadecountymt.gov](mailto:sweber@cascadecountymt.gov)>  
Subject: RE: Cascade County Zoning Board discrepancies  
Date: Mon, 7 Nov 2016 17:16:40 +0000

I just received this. I am about to travel out of town to meet with a child crime victim for a trial I have next week.

I am referring your message to Ms. Haight as she is the lead attorney for our office on this matter.

As we continue our work on the legal dimensions of this issue, I will appreciate it if you will refrain from further insults regarding Ms. Haight. She is extremely talented and hard-working.

Thank you in advance.

John Parker  
Cascade County Attorney

**From:** Kelly Parks,MS [<mailto:kelly@greatfallsrealty.com>]  
**Sent:** Monday, November 07, 2016 8:55 AM  
**To:** Parker, John <[jparker@cascadecountymt.gov](mailto:jparker@cascadecountymt.gov)>  
**Cc:** Dept of Justice State of Montana <[contactdoj@mt.gov](mailto:contactdoj@mt.gov)>  
**Subject:** Cascade County Zoning Board discrepancies

Hi John,

As Cascade County Attorney you have officially voided the previous Cypress Creek aka Portage and

Fox solar public hearings. Since they are void how can testimony be allowed to transfer to the new hearings from those void hearings that didn't exist?

Also, sadly, for the record, your Deputy County Attorney who sits in the civil proceedings and who was present during the "voided" hearings apparently appears grossly incompetent, as she is legal council for the Zoning Board of Adjustment and allowed the hearings to proceed without a quorum, and also allowed discriminatory comments to be made, possibly violating certain members of the public's human rights, by certain Zoning Board members towards the public.

The County Attorney's office has allowed your Deputy County Attorney to conduct public hearings without a quorum, a basic rule, wrongly making the public think the hearing is valid wasting the public's time and the time of volunteers on the Zoning Board because she, it appears, doesn't know what she is doing.

I am deeply disappointed, as I know that if you were present, you would not have allowed a public hearing to go on without a quorum and you would not let members of a County board openly, on the record, discriminate against any Cascade County Citizen.

I am requesting that Carey Haight, Deputy County Attorney, be removed from any future proceedings that involve hearings and public comment, as she exposed the County to liability and she clearly doesn't understand how a quorum of a County board works and has mislead both the Zoning Board and the citizens of Cascade County. All parties have a right to be heard without any form of discrimination from Zoning Board members and from your Deputy County Attorney.

I am also requesting that Bill Austin step down from the board for his open and recorded discriminatory comments towards women. Austin's outbursts at the last hearings toward Tim Wilkinson's attorney (woman) were outrageous and his comment that if I didn't like the solar farm I shouldn't look at it was also outrageous and a personal hate speech comment. Male speakers at the previous hearings were not chastised or rudely spoken to. The video and audio tapes will confirm my serious complaint. Also, Mr. Austin indicated at the Zoning Board meeting yesterday that when he said "if you don't like it don't look at it", he was joking. Hate speech is not joking matter towards a woman. It is very sad.

It is also my understand that in the past the County Board of Adjustments has used a 3 person board as a quorum for years, and because of that, has set a precedent. If all 3 members of that board do not agree then an application must be denied. Please see previous years minutes and decisions to verify and also please review the Zoning regulations.

Also, does the applicant for a special/unconditional use permit have to provide documentation/proof of a lease or purchase agreement for the property they are requesting using? If not then can anyone make an application for a special/unconditional use on anyone's property? According to Carey Haight the Zoning Board will hear all applications regardless. Does that mean that a person could apply to change the use of another person's property to whatever they like?

Cypress Creek aka Portage Solar is not exempt from the stay that the Public Service Commission (PSC) on Solar contracts, as they are not on the list of grandfathered sites listed by Northwestern Energy and submitted to the PSC. Cypress Creek aka Portage Solar is petitioning the PSC for a higher rate for its solar farms. Please verify with the Montana Public Service Commission. In their prior testimony, of which the hearings are void, but of which Brian Clifton is including that testimony in the new hearings, stated that they have a contract with Northwestern Energy, which they did not at that time and were not locked into the prior higher rate, which they testified to. So, is that fraud or just



deceptive business practices?

So, which is it John? Are all the previously passed or denied applications in front of the Zoning Board of Adjustments where a 3 person quorum was used void also? Perhaps there should be an audit of the decisions of the previous Zoning Board of Adjustments because it seems possible that the County has allowed a 3 person quorum and now is deciding, because it was not unanimous in favor of the solar applications, it is now going to abide by the law. I do not understand and need clarification about that and about why your office is allowing discrimination towards women.

I look forward to your clarification and response to my complaint,

Thank you so much,  
Kelly

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